unconditionally to surrender must likewise be present. The authority, therefore, is to be supported.

Since the courts consider the probable intention of the parties in these cases, it is difficult to see why the intention, expressed or necessarily implied, should not be examined where the new lease is valid according to the terms. In such cases the English judges say that the tenant is estopped to deny the landlord's power to make the lease, and that therefore a surrender results.[5] But they refuse to find the estoppel where the new lease, though valid, does not convey the exact interest contemplated.[6] That is, the tenant is estopped if the new lease gives him what he was intended to receive; otherwise not:[7] or, in other words, the estoppel itself is resolved into a question of intention. Consequently, the view seems preferable, that no surrender should result even where the new lease is valid, if the surrender would violate an intention clearly to be implied from the common sense of the transaction.

RECENT CASES.

AGENCY — LIABILITY OF UNDISCLOSED PRINCIPAL — PROMISSORY NOTE GIVEN BY AGENT. — The plaintiff sold realty to A and received in payment negotiable notes, signed "A, Trustee." A, unknown to the plaintiff, was acting as an agent of the defendants. The plaintiff sued upon the original contract for the purchase price. *Held*, that the plaintiff can recover. *Coaling Coal & Coke Co.* v. *Howard*, 61 S. E. 987 (Ga.).

The majority of American courts hold that recovery cannot be had on a promissory note against one whose name does not appear thereon, even if his agent signs the note and attaches words to his signature denoting his agency. *Manufacturers & Traders Bank* v. *Love*, 13 N. Y. App. Div. 561. Following the well-established rule as to the liability of an undisclosed principal, recovery is usually allowed if an action in general assumpsit is brought for the original consideration. *Harper* v. *National Bank*, 54 Oh. St. 425. The fact that the agent has given his note does not render the original contract non-existent so as to prevent a resort to it when the real parties are disclosed. The Georgia courts follow the usual presumption that the notes are not accepted as payment of the debt but merely as additional security. *Kirkland* v. *Dryfus & Rich*, 103 Ga. 127. Even where the opposite presumption prevails it is held to be overthrown in the case of an undisclosed principal, for the notes are accepted in ignorance of facts as to the real principal. *Lovell* v. *Williams*, 125 Mass. 439. The result reached in the present case, therefore, is entirely sound.

AGENCY — PRINCIPAL'S LIABILITY TO THIRD PERSONS IN CONTRACT — WIFE'S AUTHORITY TO PLEDGE HUSBAND'S CREDIT. — The defendant allowed his wife money sufficient for household expenses, but did not expressly forbid her to pledge his credit. The plaintiff, knowing nothing of the allowance, sold meat to the wife on her husband's credit. *Held*, that the defendant is not liable. *Slater* v. *Parker*, 24 T. L. R. 621 (Eng., K. B. D., May 11, 1908)

If the husband makes adequate provision for his wife, there is no so-called agency by necessity. *Compton* v. *Bates*, 10 Ill. App. 82. But by giving the wife an allowance for the purchase of necessaries, he constitutes her his agent in fact for that purpose, though perhaps impliedly prohibiting the pledging of his credit. It would seem, then, that it should be left to the jury whether this express authorization carries with it an apparent authority or incidental power

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[5] Lyon *v.* Reed, *supra.*
[6] Lloyd *v.* Gregory, W. Jones, 405.
[7] *Cf.* Wms., Saunders, 5 ed., 236 c.